

# STINSON MEMORIAL PUBLIC LIBRARY DISTRICT

409 South Main Street

Anna, IL 62906

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August 26, 2015

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street SW  
Washington, DC 20554  
ELECTRONICALLY FILED VIA ECFS

**Re CC Docket No. 02-6**  
**In the matter of Request for Review by Stinson Memorial Public Library**  
**District of a Decision of the Universal Service Administrator**

Dear Ms. Dortch,

With this letter Stinson Memorial Public Library District ("SMPLD") appeals a decision on appeal by the Universal Service Fund Administrator to deny Invoice Deadline Extensions for certain funding requests under the schools and libraries universal service support mechanism (E-Rate).

SMPLD also respectfully requests that the Commission waive the 60-day appeal deadline, as instant filing is only a few days late.

## **Background**

SMPLD is a small library system which serves the residents of Anna, Illinois.

SMPLD applied for E-Rate funding for the 2012 funding year<sup>1</sup>. Universal Service Administrative Company ("USAC") extended the invoicing deadline for the 2012 funding year to October 28, 2014<sup>2</sup>.

SMPLD submitted electronic invoices to USAC by October 28, 2014; however, two service providers were late in completing the service provider certification<sup>3</sup>. As a result, USAC denied reimbursement for the four affected funding requests<sup>4</sup>.

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<sup>1</sup> FCC Form 471 Funding Application #859824

<sup>2</sup> See *USAC Schools and Libraries News Brief*, 11/1/2013

<sup>3</sup> Service provider Frontier North provided certification for its funding requests on 10/29/2014 – only one day late. Service provider Mediacom Illinois provided certification for its funding requests on 11/4/2014 (seven days late).

<sup>4</sup> USAC denied reimbursement for Funding Requests 2340481, 2340523, 2340565, and 2341011.

On December 5, 2014, USAC informed applicants that “applicants and service providers who want to request an invoice deadline extension for a deadline that has already passed must do so before December 18”<sup>5</sup>.

On December 17, 2014, SMPLD submitted an invoice deadline extension request to USAC<sup>6</sup>. On March 27, 2015, USAC denied the request, stating that “Current deadline guidelines and procedures do not allow approval for the reason submitted”<sup>7</sup>.

On May 25, 2015, SMPLD appealed the decision to USAC<sup>8</sup>. On June 18, 2015, USAC denied SMPLD’s appeal<sup>9</sup>.

### Discussion

We first address the timeliness of this request for review. Due to an unfortunate clerical error, we had recorded the USAC appeal denial date in our records as June 28 – ten days after the actual decision date – and we calculated our appeal deadline<sup>10</sup> accordingly. Commission precedent is to grant waivers of the deadline when petitioners “submitted their appeals to the Commission within a reasonable period of time after receiving actual notice of USAC’s adverse decision”<sup>11</sup>. Since instant petition meets that standard, we respectfully request that the deadline be waived and that the Commission adjudicate this appeal on its merits.

As noted in the *E-Rate Modernization Order*<sup>12</sup> (“EMO”), the Commission’s long-term policy had been very generous in granting invoice deadline extensions. In the EMO the Commission adopted a new policy with stricter criteria for the adjudication of invoice deadline extension requests. For 2013 and earlier funding years, the Commission stated

...with respect to invoicing deadlines for earlier funding years, absent extraordinary circumstances justifying the failure to timely submit invoices, we expect the Bureau and USAC to deny any requests or appeals seeking an invoicing deadline extension of more than 12 months after the last date to invoice.

In this case it is not clear whether the “last date to invoice” is October 28, 2013, or October 28, 2014. Although the *original* 2012 funding year last date to invoice was the 2013 date, in the November 1, 2013, issue of the *USAC Schools and Libraries News Brief* USAC changed the 2012 filing deadline to the 2014 date. In other words, USAC

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<sup>5</sup> See *USAC Schools and Libraries News Brief*, 12/5/2014

<sup>6</sup> See Exhibit A, attached.

<sup>7</sup> See Exhibit B, attached.

<sup>8</sup> See Exhibit C, attached.

<sup>9</sup> See Exhibit B, attached.

<sup>10</sup> See 47 CFR §54.720.

<sup>11</sup> See *ABC Unified School District Order*, 26 FCC Rcd 11019

<sup>12</sup> See *E-Rate Modernization Order*, 29 FCC Rcd 8870, 80 FR 167

Ms. Marlene H. Dortch  
August 26, 2015  
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procedurally changed the due date for all 2012 funding year filers to October 28, 2014, and SMPLD filed its invoice deadline extension request with USAC just 50 days after the deadline –well within the 12-month standard cited in the EMO.

However, even if the 2012 funding year invoicing deadline were deemed to be the 2013 date, we submit that SMPLD's circumstances meet the requirements of the second prong of the EMO criteria – "extraordinary circumstances justifying the failure to submit timely invoices".

One dictionary defines *extraordinary* as "going beyond what is usual, regular, or customary"<sup>13</sup>. In this case are present several unusual circumstances: 1) it is at least unclear whether the invoice deadline is 10/28/2013 or 10/28/2014 (and in the case of the latter date SMPLD's extension request was submitted to USAC well before the 12-month EMO standard); 2) the invoice forms were in fact timely submitted online by the applicant; 3) one service provider submitted the necessary certifications only *hours* after the midnight deadline; and 4) the second service provider submitted the necessary certification within a week of the deadline. Given the extraordinary circumstances present, in applying the EMO criteria USAC should have granted the invoice deadline extension, and USAC erred in not granting SMPLD's appeal.

We also respectfully ask that the Commission take note that a denial of funding would create undue hardship and prevent our library system from receiving funding that we need to bring advanced telecommunications and information services to our patrons. The consequences of a denial of funding would not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

#### **Request for Relief**

For the reasons stated in this letter, SMPLD respectfully requests that the Commission direct USAC to extend the FCC Form 472 filing deadline for E-Rate funding requests 2340481, 2340523, 2340565, and 2341011.

STINSON MEMORIAL PUBLIC LIBRARY DISTRICT

*Lisa Livesay*

Lisa Livesay  
Director

#### **Attached:**

- Exhibit A: SMPLD 12/17/2014 invoice deadline extension request
- Exhibit B: USAC 3/27/2015 deadline extension denial
- Exhibit C: SMPLD 5/25/2015 appeal to USAC
- Exhibit D: USAC 6/18/2015 appeal denial

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<sup>13</sup> See <http://www.merriam-webster.com/dictionary/extraordinary> (retrieved 8/26/2015).

## EXHIBIT A

to August 26, 2015 Request for Review  
by Stinson Memorial Public Library District  
of a Decision of the Universal Service Administrator

### STINSON MEMORIAL PUBLIC LIBRARY DISTRICT

409 South Main Street • Anna, IL 62906

Phone 618-833-2521 • Fax 618-833-3560

E-mail [livesay.stinson@gmail.com](mailto:livesay.stinson@gmail.com)

December 17, 2014

Invoice Deadline Extension Request  
Schools and Libraries Division - Correspondence Unit  
30 Lanidex Plaza West  
PO Box 685  
Parsippany, NJ 07054  
SUBMITTED ELECTRONICALLY VIA SLD WEBSITE

Re Form 472 Invoice Deadline Extension Request  
Stinson Memorial Public Library District (BEN 136801)

We hereby respectfully apply for a invoice deadline extension for the following:

FRN 2340481 (FY2012), App #859824, SPIN 143004791 (Frontier North, Inc.)  
FRN 2340523 (FY2012), App #859824, SPIN 143004791 (Frontier North, Inc.)  
FRN 2340565 (FY2012), App #859824, SPIN 143004791 (Frontier North, Inc.)  
FRN 2341011 (FY2012), App #859824, SPIN 143022889 (Mediacom Illinois LLC)

We are requesting this extension because (even though we submitted the applicant portion of the BEAR form on time) the service providers did not complete their certification before the invoice due date. In once case the service provider did complete certification by the day after the invoice due date, and in the other case the service provider waited several days before submitting its required certification. However, in both cases it was the failure of the service provider to complete its portion of the process which resulted in the missed deadline.

Although upcoming FCC rules provide that an Invoice Deadline Extension Request must be filed before the invoice due date, the rules do not come into effect until December 18; therefore, this request is compliant with FCC rules in effect today.

E-Rate funds are vital to our ability to fulfill our mission. Your timely assistance with this matter will be greatly appreciated, and will further the objectives of the Universal Service Fund.

STINSON MEMORIAL PUBLIC LIBRARY DISTRICT

*Lisa Livesay*

Lisa Livesay

## EXHIBIT B

to August 26, 2015 Request for Review  
by Stinson Memorial Public Library District  
of a Decision of the Universal Service Administrator



Schools and Libraries Division

### Administrator's Decision on Invoice Deadline Extension Request

March 27<sup>th</sup>, 2015

Lisa Livesay  
Stinson Memorial Public Library District  
409 S. Main Street  
Anna, IL 62906

FCC Form 471 Application Number: 859824  
Funding Request Number(s): 2340481, 2340523, 2340565, 2341011  
Your Correspondence Dated: December 17<sup>th</sup>, 2015

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your invoice deadline extension request for the FRN(s) indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your request included more than one FRN, please note that for each FRN for which an invoice deadline extension request was submitted, a separate letter may be sent.

Decision on Request: **Denied**

Explanation: Current deadline guidelines and procedures do not allow approval for the reason submitted.

### TO APPEAL THIS DECISION

If you wish to appeal a decision in this letter to USAC, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the USAC decision letter (e.g., FCDL) and the decision you are appealing:
  - appellant name
  - applicant and service provider names, if different than appellant
  - applicant BEN and service provider SPIN
  - <insert application or form number> as assigned by USAC
  - Funding Request Number(s) (FRNs) you are appealing if provided in the letter

Schools and Libraries Division - Correspondence Unit  
30 Lanidex Plaza West, PO Box 685, Parsippany, NJ 07054-0685  
Visit us online at: [www.usac.org/sl](http://www.usac.org/sl)



## EXHIBIT C

to August 26, 2015 Request for Review  
by Stinson Memorial Public Library District  
of a Decision of the Universal Service Administrator

### STINSON MEMORIAL PUBLIC LIBRARY DISTRICT

409 South Main Street

Anna, IL 62906

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May 25, 2015

Schools and Libraries Division – Correspondence Unit

Letter of Appeal

30 Lanidex Plaza West

PO Box 685

Parsippany, NJ 07054

VIA EMAIL [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org)

Re Appeal of USAC's decisions to deny invoice deadline extensions  
Stinson Memorial Public Library District (BEN 136801)

Applicant Stinson Memorial Public Library District (BEN 136801) appeals USAC's  
3/27/2015 decisions to deny Invoice Deadline Extensions for the following funding  
requests:

FRN 2340481 (FY2012), App #859824, SPIN 143004791 (Frontier North, Inc.)

FRN 2340523 (FY2012), App #859824, SPIN 143004791 (Frontier North, Inc.)

FRN 2340565 (FY2012), App #859824, SPIN 143004791 (Frontier North, Inc.)

FRN 2341011 (FY2012), App #859824, SPIN 143022889 (Mediacom Illinois LLC)

In each case USAC provided the following explanation for the denial:

Current deadline guidelines and procedures do not allow approval for the reason  
submitted.

For each of the four funding requests we did in fact submit our FCC Form 472 BEAR  
forms on a timely basis; it is the two service providers who were late in filing their  
required certifications. Since service provider non-compliance is beyond our control,  
USAC should have granted our invoice deadline extension requests.

Furthermore, the invoice deadline extension requests were filed electronically with  
USAC on 12/17/2014. Although the Federal Communications Commission ("FCC") did  
change the standards for invoice deadline extension requests in the *E-Rate  
Modernization Order*, the last erratum to that order was published in the Federal  
Register on 11/18/2014 (79 FR 68632). The effective date of the E-Rate Modernization  
Order is therefore 12/18/2014 (30 days after the publication date). SLD acknowledges  
this in the 12/5/2014 *Schools and Libraries Program News Brief*.

Schools and Libraries Division – Correspondence Unit  
May 25, 2015  
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Prior to 12/18/2014 FCC precedent and policy are that all invoice deadline extension requests should be granted – see *Canon-McMillan School District* (23 FCC Rcd 15555, 2008), *Alton Community Unit* (25 FCC Rcd 7089, 2010), *ABC Unified School District* (26 FCC Rcd 11019, 2011), *Franklin County School District* (26 FCC Rcd 14251, 2011), *Clintonville Public School District* (27 FCC Rcd 416, 2012), and *Annunciation Elementary School* (27 FCC Rcd 7007, 2012). In each of these orders the Commission found that USAC erred in not granting the requested invoice deadline extensions.

FCC rules and precedent in effect on the date of an invoice deadline extension request take precedence over USAC guidelines and procedures; i.e., in case of conflict between FCC rules and precedent on the one hand, and USAC guidelines and procedures on the other hand, it is FCC rules and precedent which control.

Since USAC acted inconsistently with FCC rules and precedent in effect on 12/17/2014, USAC erred in its decision and should have granted the invoice deadline extensions requested. On appeal USAC should correct the error and grant invoice deadline extensions for each funding request.

I am the contact person for this appeal. I request that you also send a copy of all correspondence regarding this appeal to David Behar, E-Rate Support Services, P.O. Box 40204, Spokane, WA 99220.

STINSON MEMORIAL PUBLIC LIBRARY DISTRICT

*Lisa Livesay*

Lisa Livesay  
Director

## EXHIBIT D

to August 26, 2015 Request for Review  
by Stinson Memorial Public Library District  
of a Decision of the Universal Service Administrator



**Universal Service Administrative Company**  
Schools & Libraries Division

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### Administrator's Decision on Appeal – Funding Year 2012-2013

June 18, 2015

Lisa Livesay  
Stinson Memorial Public Library District  
409 South Main Street  
Anna, IL 62906

Re: Applicant Name: STINSON MEMORIAL PUBLIC  
LIBRARY DISTRICT  
Billed Entity Number: 136801  
Form 471 Application Number: 859824  
Funding Request Number(s): 2340481, 2340523, 2340565, 2341011  
Your Correspondence Dated: May 25, 2015

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2012 Administrator's Decision on Invoice Deadline Extension Request Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2340481, 2340523, 2340565, 2341011  
Decision on Appeal: **Denied**  
Explanation:

- For FRN 2340481, 2340523, 2340565: FCC Form 472 Number 2102892 was certified online by the Service Provider on October 29, 2014 which was after October 28, 2014, the last day to submit an invoice to USAC.

For FRN 2341011: FCC Form 472 Number 2102954 was certified online by the Service Provider on November 4, 2014 which was after October 28, 2014, the last day to submit an invoice to USAC. It is the applicant's responsibility to ensure that all blocks of the FCC Form 472 are submitted to USAC in a timely manner.

Administrative procedures related to the payment of support for discounted services establish deadlines for applicants or service providers to submit invoices



to USAC. The administrator provides an extension of the deadline under certain conditions. Those conditions are documented in the Reference area on the USAC website. (See Invoice Extensions for more information.) Your request did not provide information that satisfied those conditions.

Your appeal has not brought forth clear information establishing that those conditions were met but not considered. Therefore, your appeal is denied.

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company

cc: David Behar

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Visit us online at: [www.usac.org/slr](http://www.usac.org/slr)